

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RICKEY ELY, Derivatively on Behalf of Nominal	:	Case No. 1:17-cv-03799
Defendant NEWLINK GENETICS CORPORATION,	:	
	:	<b>JOINT STIPULATION TO</b>
Plaintiff,	:	<b>CONTINUE TO STAY ACTION</b>
	:	<b>PENDING RESOLUTION OF</b>
vs.	:	<b>APPEAL OF DISMISSAL IN THE</b>
	:	<b>RELATED SECURITIES ACTION</b>
CHARLES J. LINK, JR., THOMAS A. RAFFIN,	:	
PAUL R. EDICK, PAOLO PUCCI, JOSEPH	:	
SALURI, ERNEST J. TALARICO, III, NICHOLAS	:	
VAHANIAN and LOTA S. ZOTH,	:	
	:	
Defendants,	:	
	:	
and	:	
	:	
NEWLINK GENETICS CORPORATION,	:	
	:	
Nominal Defendant.	:	
	:	
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This stipulation is entered into by and among plaintiff Rickey Ely (“Plaintiff”) and defendants Charles J. Link, Jr., Paolo Pucci, Joseph Saluri, Ernest J. Talarico, III, Nicolas Vahanian, Lotta S. Zoth, and nominal defendant NewLink Genetics Corporation (“NewLink” and, together with the other defendants, the “Defendants”), by and through their respective attorneys of record;

WHEREAS, on June 26, 2017, the Court entered an Order staying the above captioned action “until the earlier of either of the following events: (i) the Securities Action<sup>1</sup> is dismissed

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<sup>1</sup> *Nguyen, et al., v. Newlink Genetics Corporation, et al.*, Case No. 1:16-cv-3545 (S.D.N.Y.) (the “Related Securities Action”).

with prejudice; or (ii) the Defendants file an answer in the Securities Action subject to Plaintiff's right to seek consolidation (and organization) of any related derivative actions before this court;"

WHEREAS, on February 23, 2019, the district court granted defendants' motion to dismiss the Related Securities Action, with prejudice;

WHEREAS, on March 14, 2019, plaintiffs filed a Notice of Appeal in the Related Securities Action;

WHEREAS, Plaintiff believes that the result of the forthcoming appeal could have bearing on this Action;

WHEREAS, Plaintiff therefore wishes to continue the stay in this Action pending resolution of the appeal in the Related Securities Action;

WHEREAS, in the interest of judicial economy and the efficient administration of justice, counsel for the parties in this Action agree to continue to stay this Action during the pendency of an appeal in the Related Securities Action;

IT IS ACCORDINGLY STIPULATED AND AGREED, by the undersigned counsel for Plaintiff and the Defendants, that:

1. This Action shall remain stayed pending final resolution of the appeal of the Related Securities Action, including any petitions for rehearing at the Second Circuit.
2. If the Related Securities Action remains dismissed in its entirety following final resolution of the appeal of that action, Plaintiff agrees to withdraw or dismiss this Action, with prejudice.
3. In the event that any discovery is provided or produced by any of the Defendants in the Related Securities Action or any other related shareholder derivative action purportedly brought or threatened to be brought on behalf of NewLink arising from similar facts as the

instant action, whether filed in this Court or in another court, Defendants will at or about the same time notice Plaintiff and provide copies of that discovery to the Plaintiff in this Action, provided that the parties have executed and the Court has entered a protective order.

4. If the Related Securities Action does not remain dismissed in its entirety following final resolution of the appeal of that action then, within 14 days following a decision referenced in Paragraph (1) above, the parties shall meet and confer regarding a further case schedule.

5. Defendants will notice Plaintiff regarding and permit Plaintiff to participate in any mediation or settlement efforts in the Related Securities Action or any threatened or filed related derivative actions. NewLink will invite Plaintiff to participate in any such mediation or formal settlement meetings. Notification to Plaintiff of the setting of such mediation(s) or meeting(s) shall be reasonable to permit attendance.

6. This Stipulation is without prejudice to the parties hereto agreeing, subject to Court approval, to a further extension of time regarding any of the deadlines established herein if the circumstances warrant.

7. Either side may file a motion to lift the stay so long as the party gives thirty (30) days' notice to the other side prior to filing such a motion.

8. The parties reserve all other rights.

Dated: March 15, 2019

Respectfully submitted,

**COOLEY LLP**

/s/ David Kupfer

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*Counsel for Plaintiff Rickey Ely*

SO ORDERED:

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HON. WILLIAM H. PAULEY III  
United States District Court Judge